

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5594/2000, 7088/2000,
7091/2000, 7092/2000, 1449/2000, 1450/2000.

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MAHENDRABHAI DAHYABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR RS SANJANWALA for Petitioner
Mr.H.L. Jani, APP for Respondent No. 1
RULE SERVED for Respondent No. 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 05/12/2000

COMMON ORAL JUDGEMENT

As common question of law and facts is involved
in the above stated matters, all the matters are being
heard together and are being disposed of by this common

judgment.

Heard learned Advocate Mr. R.S. Sanjanwala for the petitioner in each of the matter and learned A.P.P. Mr. H.L. Jani for the respondent-State in each of the matter.

The petitioner of Misc. Criminal Application nos.5594/2000 was arrested by PSO Pardi, District Valsad in connection with III CR. no.224/2000 registered at Pardi Police Station on 1-8-2000. It is alleged against the said petitioner that one Yogesh Jagubhai Koli the accused no.1 was found in possession of Indian made foreign liquor in the decky of his scooter bearing registration no. DD-03-8947. That on inquiry the accused no.1 Yogesh Jagubhai Koli informed the complainant Bhupatsinh Natwarsinh - a Head Constable of LCB Valsad to the effect that he had brought said liquor from the petitioner who has been running a Bar in the name and style of Royal Bar at Daman and who is also known as Mahendrabhai Kamali. That on the said allegation, the petitioner is made the accused no.2 of the said offence. The petitioner has challenged the said FIR in the present petition.

The petitioner of Misc. Criminal Application no.7088/2000 was arrested by Police Sub Inspector Pardi in connection with III CR no.329/2000 registered at Pardi Police Station on 19-9-2000. It is alleged in the FIR that Police Sub Inspector S.S. Barat of Pardi Police Station alongwith his staff member was on patrolling duty around 4.00 p.m. At that time, near Pardi Cross Road, they found one jeep passing at high speed in suspicious manner. That thereby, the patrolling squad had chased the said jeep and intercepted it. That the driver of the jeep Mehulkumar Ramanbhai informed that he was a resident of Daman. That one Jagdish Manilal was sitting in the front seat of the said jeep while one Keshavbhai Radkabhai was sitting in the rear seat of the said jeep. That during the search Indian made foreign liquor was found in the said jeep concealed in a bundle which was seized and on further inquiry persons sitting in the jeep informed the police that said liquor was brought by them from Nayan Bar run by the petitioner-Raman Lala alias Raman Bojli of Moti Wankad, Daman. The petitioner has challenged the said FIR in the present petition.

The petitioner of Misc. Criminal Application no.7091/2000 was arrested by the Incharge Police SubInspector, Pardi Police Station in connection with III CR no.378/2000 registered at Pardi Police Station on

12-11-2000. It is alleged in the FIR that the accused no.1- Shantaben wd/o. Dahyaram Sukarbhai Prajapati was found in possession of Indianmade foreign liquor by PSI Pardi Police Station Nagjibhai Jagannath and on inquiry, it was informed that said liquor was brought by her from the present petitioner. The petitioner has challenged the said FIR in the present petition.

The petitioner of Misc. Criminal Application no.7092/2000 was arrested by the Incharge Police Sub Inspector of Pardi Police Station in connection with III CR. no.376/2000 registered at Pardi Police Station on 12-11-2000 on the allegation that the accused no.1 Manishbhai Sureshbhai Patel was found in possession of Indianmade foreign liquor by Police Constable Pardi Police Station Sukarbhai Janakbhai. That on inquiry the accused no.1 informed him that said liquor was brought by him from the present petitioner at Daman. The petitioner has challenged the said FIR in the present petition.

The petitioner of Misc. Criminal Application no.1449/2000 was arrested by Police Inspector LCB Valsad in connection with III CR no.5013/2000 registered at LCB Valsad Police Station on 9-2-2000. It is alleged in the FIR that the accused no.1-Deepak B. Halpati was found in possession of Indianmade foreign liquor by unarmed Police Constable Dilip Shankar of LCB Valsad and on inquiry the accused no.1 informed that the said liquor was brought by him from the petitioner Raman Lala alias Raman Bojli of Daman The petitioner has challenged the said FIR in the present petition.

The petitioner of Misc. Criminal Application no.1450/2000 was arrested by Police Sub Inspector LCB Valsad in connection with III CR no.5012/2000 registered at LCB Valsad Police Station on 9-2-2000. It is alleged in the said FIR that the accused no.1 Rajesh Nanubhai Bandari was found in possession of Indianmade foreign liquor by unarmed Police Constable Bharat Chunilal of LCB Valsad and on inquiry the accused no.1 told him that he brought the said liquor from the present petitioner having bar at Daman The petitioner has challenged the said FIR in the present proceedings.

The synopsis of the above stated facts in each of the petition suggests that respective petitioner is made the accused no.2 in the respective offence registered at different Police Stations on the basis of statement made by accomplice.

It is alleged on behalf of the petitioner that

the police authority has adopted a modus operandi to get the name of the respective petitioner as and when illegal liquor is found from the possession of some carrier and the carriers are either pressurised to give the name of the respective petitioner or though the names are not given by such carriers, police authorities used to mention the name of the petitioners so as to register false cases and ultimately make out a case for detention under PASA.

It may be noted that initially notice and thereafter, rule was issued, however, no affidavit on behalf of the respondent has been filed. The learned A.P.P. was called upon to show from the material collected by the Investigating Officer which could connect the petitioner corroborating the statement of accomplice in respect to involvement of the petitioner in the said offence. As nothing could be shown to the Court, it has to be concluded that the petitioners are involved in the said offences without any material collected by the Investigating Officer for whatsoever motive even if the allegation made by the petitioners are not accepted.

In view of the above stated discussion, the FIR in the respective petition is required to be quashed and set aside qua the petitioner in the respective petitions as facts stated in the FIR as well as the material collected pursuant to that do not implicate the petitioner in respect to allegation of offences stated therein.

In the result, all these petitions are allowed. FIR impugned in the respective petition stands quashed and set aside. Rule to that extent is made absolute. No order as to costs.

(A.K.Trivedi, J.)

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